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Remarks/Arguments:

I. Introduction

Upon entry of the present amendment, claims 1-8, 10, 13-18, 25-27 and 29-38 under 35 will remain pending in this application. Independent claims 1, 13, 25, and 27 have been amended to clarify that the smaller diameter section (or reduced diameter section) ends at the outer or second surface. Support for these amendments appears in the specification at page 24, lines 10-11 and Figures 4-8.

Because the present amendments (1) do not raise new issues requiring further consideration or search, (2) do not introduce new matter, (3) materially reduce the issues for appeal, and (4) place this application into better condition for allowance, entry is appropriate under 37 C.F.R. § 1.116, and is respectfully requested. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

II. 35 U.S.C. § 102

The Examiner has maintained his rejection of all pending claims under U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,645,606 to Oehy. The Examiner states that Oehy et al. disclose an acetabular shell or cup 5 having openings with an extended nonthreaded frustoconical taper section 25 and a rounded section with a concave surface 25a beginning at a narrow end of the frustoconical section, with each opening 12 capable of receiving any type of fastening element 14 with spherical undersurfaces (16a, 14a) seatable in a plurality of angular positions (Figs. 1-2, col. 2, lines 45-67, col. 3 and col. 4, lines 1-6). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof for the following reasons.

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1. The Oehy reference does not show or describe a smaller diameter section that ends at the second or outer surface of the prosthesis.

The claims have been amended to clarify that the frustoconical taper section ends "at the second surface" or "at the outer surface" in a section having a smaller diameter than the frustoconical taper section (or in a reduced diameter section). This is described in the specification at page 12: "Openings 60 also have a smaller diameter section 66 at or near second surface 56." *See also* Figure 4, below.

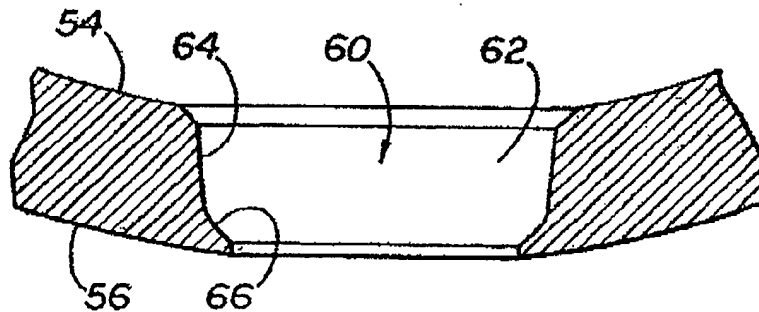
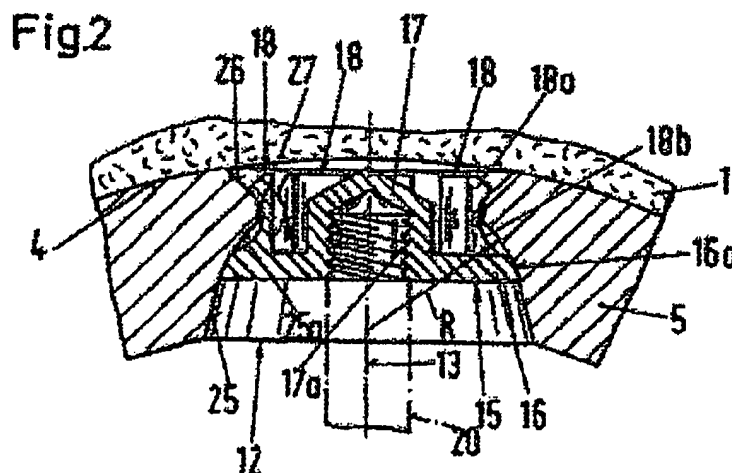


FIG 4

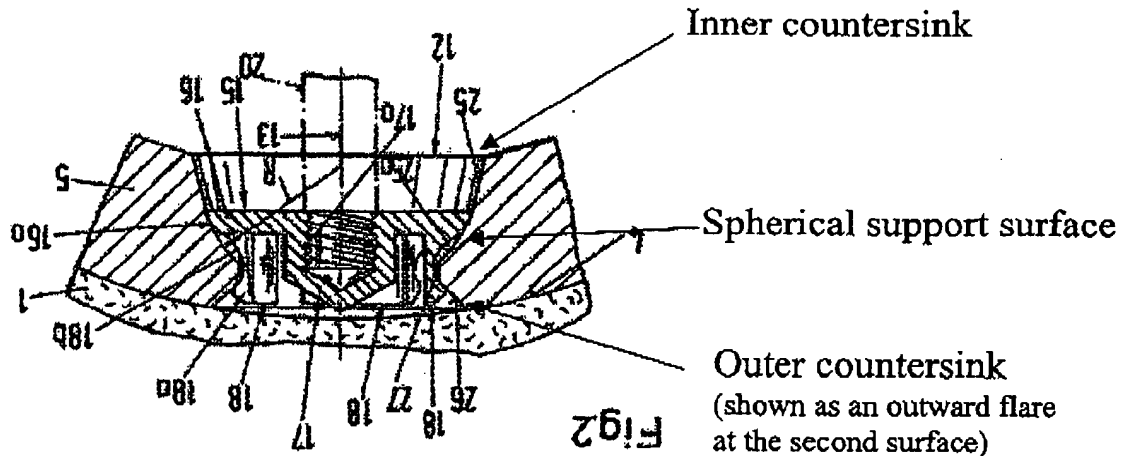
This is in stark contrast to the through-holes 12 of the Oehy reference, shown below.



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Figure 2 of the Oehy patent is reproduced below upside down, so that its outer surface faces the same direction as the outer surface of above Figure 4. As is apparent, its holes 12 have both an inner countersink 25, a spherical support surface 25a, and an *outer countersink* 26. The outer countersink 26 is essentially an outwardly "flared out" portion at the second or outer surface, extending from the spherical surface. In other words, the portion having a smaller diameter than the inner countersink portion of the Oehy reference does not end at the outer or second surface; instead, it flares back out at the outer countersink.



As the Examiner knows, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See MPEP § 2131; *Verdegaal Bros. V. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Because the claims currently recite elements that are not shown or described by the Oehy reference, it is respectfully submitted that the currently pending claims are allowable.

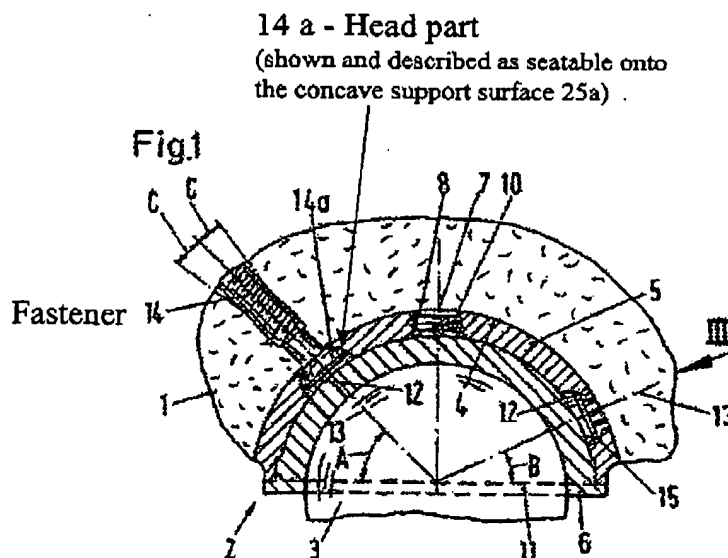
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2. As previously argued, the Oehy reference does not show or describe an insertion member with a rounded, nonfrustoconical contact surface that contacts a frustoconical taper of the opening

In response to Applicants' previous arguments against the application of the Oehy reference, the Examiner states that the Oehy reference discloses that openings 12 have a conically shaped inner end portion and an approximately spherical support surface 25a formed between the end portion and the circumferential part 27 (col. 3, lines 3-8) and that the closure plug 15 can be placed in opening 12 so that sealing surface 16a that contacts the frustoconical inner end portion. This is not true. Applicants respectfully traverse.

As shown in Figure 1, the Oehy fastener 14 has a rounded head portion that cooperates with a rounded portion of the hole 12. Col. 3, lines 11-13 state that: "[f]astening elements 14 can each be designed with a head part 14a which has a corresponding convex butting surface which is thus seatable onto the concave support surface 25a..."



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In other words, there is no teaching or disclosure of the claimed rounded portion of the insertion member contacting an extended taper section of the prosthesis. It contacts only the rounded section. Compare this difference to, for example, Figure 6 of the current application, where the rounded, nonfrustoconical surface of head 92 (e.g., the "slice" of a sphere, as described by the specification at page 29) contacts extended taper 64.

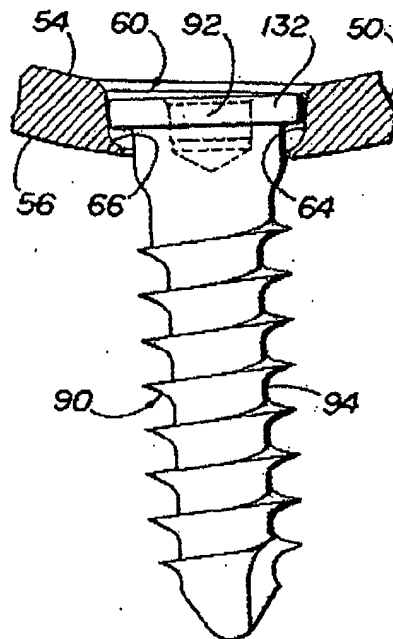


FIG 6

Accordingly, because the Oehy reference fails to teach "an insertion member having a head which includes a rounded, nonfrustoconical contact surface that contacts said frustoconical taper section of said opening when the insertion member is inserted into the opening," it does not anticipate the pending claims.

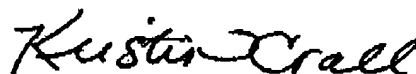
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CONCLUSION

For at least the above reasons, Applicant respectfully requests allowance of all pending claims and issuance of a patent containing these claims in due course. If there remain any additional issues to be addressed, the Examiner is invited to contact the undersigned attorney at 404.815.6147.

Respectfully submitted,



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